

Minutes
WARRICK COUNTY AREA BOARD OF ZONING APPEALS

Regular meeting to be held in the Commissioners Meeting Room,
Third Floor, Historic Courthouse,
Boonville, Indiana
February 27, 2017 at 6:00 P.M.
North & South doors of the Historic Courthouse open at 5:40 P.M.

PLEDGE OF ALLEGIANCE: A moment of silence was held followed with the Pledge of Allegiance.

Members Present: Tina Baxter, Terry Dayvolt, Doris Horn, Mike Moesner, Jeff Willis, Mike Winge, and Jeff Valiant.

Also present were Morrie Doll, Attorney, Sherri Rector, Executive Director, and Sheila Lacer, Staff

Members Absent: None

Roll call was taken and a quorum declared present.

Minutes: Upon a motion made by Doris Horn and seconded by Mike Winge, the minutes of the last regular meeting January 23, 2017 were approved as circulated.

SPECIAL USE:

BZA-SU-17-03

APPLICANT & OWNER: Abundant Life Church by Troy Boulware, Minister

PREMISES AFFECTED: Property located on the S side of Sharon Road approximately 200' W of the intersection formed by Sharon Rd and Lenn Rd, Ohio Twp., *(complete legal on file)* 7333 Sharon Rd Advertised in the Standard on February 16, 2017.

NATURE OF CASE: Applicant requests a Special Use (SU8) from the requirements as set forth in the Comprehensive Zoning Ordinance in effect for Warrick County, IN to allow an Improvement Location Permit to be issued for an Electronic Message Board in an "R-1A" One Family Dwelling Zoned District.

Troy Boulware stated my name is actually Troy not Tray with an O instead of an A.

Michael Siebeking with Sign Crafters.

Mrs. Rector stated this is a request for Special Use 8 (SU8) for an electronic message board. She said we do have all of the green cards from everyone except Bernard and Gail Rottman and Dawna Battram. She said we have the white paid receipts showing they were mailed on January 30, 2017 and to the correct address. She said the existing land use is Abundant Life Church. The surrounding zonings and land use to the North is zoned Agricultural, Sharon School and R-2 Sharon Meadows Subdivision. She said the property to the East is R-1A,

Cliftmeere Sub, and to the west is R-1A, Augusta Hills Subdivision and property to the south is zoned R-2, Lakevale Estates. She said that part of the property to the south and west sides are in the AE flood plain however not where the sign will be posted. She said they do have an existing entrance off of Sharon Road they have answered the special use questions in the proposed use statement which said is a church with an illuminated ID sign and double faced 3 foot by 8 foot electronic message board. She stated you have all of that in your packet and the proposed signage.

Troy Boulware stated we have been there twenty-eight years on that sight and another sign there ever since. He said we are just replacing it with an electronic board.

Terry Dayvolt asked what is the size of the existing sign?

Michael Siebeking stated the sign that is there right now is 6 by 12. Six foot tall and twelve wide.

Terry Dayvolt asked will this cause any problems as far as visibility?

Michael Siebeking answered no it shouldn't. We are discussing that right now we might have to move it back a little bit closer to the church anyway because of the right-of-way.

Mike Winge stated if we could get clarification on that it would be helpful.

Mrs. Rector asked what do you need clarification on?

Multiple people answered the right-of-way on Sharon Road.

Mrs. Rector stated we will have to ask the Engineer's Office what it is.

Mr. Siebeking stated I think you mentioned that to me before that we may or may not have to move it back a little farther.

Mrs. Rector replied yes it has to be back twenty-five feet from the edge right-of-way.

Terry Dayvolt asked if the school has an electronic sign there now?

Michael Siebeking replied not yet, no. He said he talked to them about that and it is budgeted this year at this point.

Troy Boulware stated obviously we share a parking lot we use theirs from time to time. He said whatever is going on over there we would be glad to post it as well on our electric board until they can get their own.

Ascertaining no remonstrators present and no questions from the Board the Chairman called for a motion.

I, Mike Winge, make a motion finding be made as follows from the testimony proposed use statement:

1. The USE is deemed essential or desirable to the public convenience or welfare.
2. The USE is in harmony with the various elements or objectives of the Land Use Plan for Warrick County.
3. The USE will not be a nuisance or serious hazard to vehicles, pedestrians, or residents.
4. The USE as developed will not adversely affect the surrounding area.
5. Adequate and appropriate facilities will be provided for proper operation of the USE.
6. The specific site is appropriate for the USE.

And the application be approved in accordance to the application and plans on file, subject to the following conditions.

1. Subject to the property being in compliance at all times with the applicable zoning ordinances of Warrick County.
2. Subject to all public utility easements and facilities in place.
3. Subject to an Improvement Location Permit being obtained for the new message board.
4. Subject to any required Building Permits being obtained.
5. Subject to the Special Use not being altered to become any other use nor expanded than that which was approved by the Board of Zoning Appeals.
6. Subject to no use of the words, “stop”, “danger”, “look”, or any other word which would confuse traffic.
7. Subject to no revolving beams of light or strobe lights.

The motion was seconded by Doris Horn and unanimously carried.

Mrs. Rector stated they will have the approval done by Wednesday and they will talk to Bobby Howard and find out about the right-of-way.

OTHER BUSINESS:

None

ATTORNEY BUSINESS:

None

EXECUTIVE DIRECTOR BUSINESS:

Mrs. Rector asked Morrie at one time on these Special Uses for these on premise signs we would have as a condition that they could not advertise for anyone else; it had to be only for that specific business or church. She said should we add that back in there or otherwise it makes it an off premise sign if you start advertising.

Morrie Doll answered that arose in the Federal Highway Bills which required Federal Highway Law limited bill boards but if you have property and you operated a business on it and it was on a highway right-of-way you were exempt from the spacing requirements applicable to signage. He said it couldn't be used for anything else so a lot of counties and states had ordinances that said when you approve a sign specific to a sight it can't be used for anything else. He stated that he doesn't remember us having it here.

Mrs. Rector stated that our ordinance has definition between on premise and off premise signs, and yes where we got into that was the state still controlled signage that was off of the highway if you could see it from the highway and it was Ubelhor storage buildings the one they wanted to put on their building and they said that was fine as long as they didn't advertise any other business. She stated our ordinance says what an on premise sign is and an off premise sign, so if you start advertising and they require different zonings and different setbacks and different distances.

Mike Winge asked that would be if they own a sign wouldn't it? He said if they don't own that sign and that other people puts a message up for them that wouldn't apply to that I don't think.

Mrs. Rector stated we even made that as a condition on Peoples Bank on Highway 261 that they could not advertise for anyone else because that made it an off premise sign.

Jeff Willis asked does that law only affect highways or any road?

Mrs. Rector stated no it is our ordinance I'm talking about I don't care about what the State regulation is I'm talking about our ordinance because we have spacing between an off premise sign doesn't necessarily mean a bill board. She said it is a sign that is something not on the premises not the use of that piece of property that's an off premise sign. She stated then it doesn't matter if it's a billboard or your advertising someone else's business and it says 500' spacing in our ordinance between the two signs and you have all of these different regulations and none within a radius of so many feet.

Morris Doll asked how do we enforce it?

Mrs. Rector stated we check it. She asked to enforce what they are putting on there? She said we can't enforce it but we can put it as a condition.

Mike Winge asked Sherri what if the school was advertising a function and somebody else wanted to put that on their sign.

Mrs. Rector stated exactly.

Morrie Doll stated Peoples Bank wants to encourage people to buy Girl Scout cookies or what have you do we really want to get into the business of keeping them from doing some community service. He said can you do it yes you can. You absolutely can make it a condition. I don't know how we would enforce it and I don't know that it is always a good thing but that is up to the Board.

Mike Winge stated it could hurt some not for profit organization. He said we would have to be careful with that.

Doris Horn stated I think it was more of a safety issue that we had back in those days because if we get too many advertisements like a bank and if they sell cookies and then you're going to advertise when there is a ball game people are watching that instead of the road.

Mike Winge replied that's not an issue anymore because everybody has cell phones. Their eyes are always looking at the floor board anyway.

Laughter and talking by several people.

Jeff Willis stated I was wondering if it's a highway issue for the highways if Sharon Road wouldn't fall under that why would we want to make Sharon Road for the church part of that you can't see that from Hwy 66.

Mike Winge stated anybody even the school cause if the school wants to like you said for Girl Scouts or activities or somebody else couldn't advertise for them we'd be hampering them.

Mrs. Rector stated that she was looking for the sign ordinance.

Doris Horn stated there is good and bad in both of them.

Jeff Willis stated where Heritage Credit Union is and you have all of those and everybody is probably going to get big signs out there but does it matter if they are selling Girl Scout cookies or they are selling CD's people are still going to look over there. They can... well.

Mrs. Rector stated that an on premise sign is "a sign means identification description, display or illustration, which is affixed to, painted, or represented directly or indirectly on a building or land and which directs attention to product, person, business, or service associated or offered as the primary use, business, or activity on the premises." She said this shall include semi-trailers.

Mike Winge stated that definition is just saying that if you have a sign that's what has to be there. He said it doesn't say about not owning one and using one.

Mrs. Rector asked what?

Mike Winge stated that's talking about if you are going to put a sign on your premises right Morrie?

Morrie Doll replied right.

Mrs. Rector stated she's talking about on premise signs.

Mike Winge stated we were talking a minute ago about using somebody else's sign that's not on their premises so that wouldn't even apply to that.

Mrs. Rector replied then you have off premise signs.

Mike Winge stated ok go to that one.

Mrs. Rector stated that "an off premise sign is an outdoor advertising display means an identification, description, or illustration which directs attention to a product, person, business, or service not offered or sold as the primary use, business, or activity on the premise where it is located." She said that is telling you if you're advertising something other than what is there on that property it is an off premise sign. She said that if you're advertising what is on your business it is an on premise sign. She said then you have different setbacks like off premise signs, the setbacks and how many feet, 75' apart and minimum of 500 feet radius and 1000 feet on one side of the road. She said so I guess trying to get a determination here if you're going to let on premise signs advertise other people's signs then you are making them an off premise sign that has to abide by.

Terry Dayvolt asked Mrs. Rector to read the description of on premise sign.

Mrs. Rector stated it's the same thing as the other one but it says on land in which directs attention to business services offered as the primary use business or activity on the premises.

Jeff Willis asked the primary use of the sign or the primary use of the primary use business at that address.

Mrs. Rector replied yes.

Jeff Willis which is it? He said the primary use of the sign, or the primary business at that address?

Mike Winge stated he has a point.

Jeff Willis stated that some business some addresses have three businesses.

Mrs. Rector stated right.

Morrie Doll stated so the primary business or it the primary use of the sign that's advertised those businesses.

Mrs. Rector stated it is the business.

Terry Dayvolt asked what's primary Morrie?

Morrie Doll replied majority.

Mike Winge stated not all but majority.

Morrie Doll stated yes it doesn't have to be exclusive.

Mike Winge stated ok then that would take care of it right there.

Morrie Doll stated if we meant it to be exclusive then it would say exclusive.

Mike Winge stated so if it just says primary if you wanted to use it to throw something else in there on occasion.

Morrie Doll stated that if you have three businesses he's thinking of the sign on Hwy 66.

Mrs. Rector stated we do have it's what is in that building.

Morrie Doll replied yes.

Mrs. Rector stated or it could have three businesses.

Jeff Valiant stated he thinks it would goes back to the owner.

Jeff Valiant stated because if you know if you have a business and you have a sign and he's like Jeff just opened this whatever and he wants to promote it. He said he means that's not me.

Mrs. Rector replied which makes it an off premise sign because he is advertising your business.

Jeff Valiant asked off premise for me or off premise for him?

Mrs. Rector replied for him.

Morrie Doll stated for the owner of the sign.

Mrs. Rector stated anyway give you something to think about but we need to straighten it out because if you are going to start letting people put on premise signs on their property and advertising for other people's business at ...

Mike Winge stated but Sherri if you do that then the schools are the number one violators of that because they have all kinds of stuff.

Mrs. Rector stated schools are exempts.

Mike Winge stated he doesn't go for that.

Mrs. Rector stated they are a governmental agency.

Mike Winge stated he thinks they should get rid of that rule then.

Mrs. Rector stated you talk to the Commissioner's about getting that changed.

Mike Winge stated he would love to because it is supposed to be nondiscriminatory what we do and what we work with. He stated one organization whether profitable or non-profitable they should all be treated the same.

Mrs. Rector replied since 1964 governmental agencies and farming has been exempt from Improvement Location Permits.

Mike Winge stated I know because the schools here when I was Building Commissioner had to buy building permits and they had to have...

Mrs. Rector stated she didn't say building permits.

Mike Winge stated what he's saying is they were included in all of that and had to follow all of the regulations.

Mrs. Rector stated she didn't say building permits.

Mike Winge replied he knows.

Mrs. Rector stated she said Improvement Location Permits.

Mike Winge stated why do they get half off and then the other half they don't.

Mrs. Rector stated she doesn't know. She said she didn't write it she didn't make it exempt.

Mike Winge stated we will have to look into that.

Mrs. Rector stated also farming she means mining is exempt too unless it is in the flood plain.

Being no other business the meeting adjourned at 6:15 p.m.

Jeff Valiant, Chairman

ATTEST:

The undersigned Secretary of the Warrick County Board of Zoning Appeals does hereby certify the above and foregoing is a full and complete record of the Minutes of the said Board at their monthly meeting held February 27, 2017.

Sherri Rector, Executive Director